

SAMPLE REQUEST FOR APPROVAL OF PROPOSED DEPARTMENTAL LEGISLATION (0500)

No. 1 Jan. 1998

REQUEST FOR APPROVAL OF PROPOSED DEPARTMENTAL LEGISLATION

RESOURCES AGENCY

DEPARTMENT Forestry and Fire Protection (CDF)	BILL CONTROL NO.
TITLE Small Claims Court - Increase Allowable Filings	

PROBLEM:

Frequently California Department of Forestry and Fire Protection (CDF) Ranger Unit offices throughout the state file cases in small claims court to recover amounts owed to CDF. The current jurisdictional limit to small claims court cases is \$5,000, but present law limits state agencies and private entities to filing no more than two cases for between \$2,500 and \$5,000 per year. Local government agencies have no limit on the number of cases they can file per year between those amounts. CDF could recover more of the money owed to the department if it could also file more than two cases per year for \$5,000.

The present exception for local government agencies to file more than two cases per year above the \$2,500 limit was added in 1992 in an effort to relieve the financial stress on local agencies. The legislation followed a pilot project in San Francisco and Stanislaus Counties which demonstrated that this authority would enable local governments to recover more of the amounts owed them in a cost effective way.

PROPOSED SOLUTION:

1. **Existing Law:** Although the jurisdictional limit for small claims court is \$5,000, state agencies, including CDF, are currently limited to filing no more than two cases per year in small claims court for amounts in excess of \$2,500. Local agencies can file an unlimited number of cases up to the \$5,000 limit.

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Date: September 17, 1997

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SUGGESTED AUTHOR		APPROVED AUTHOR		GOVERNOR'S OFFICE USE
DEPARTMENT HEAD	DATE	AGENCY HEAD	DATE	

2. **Proposed Change:** Add state agencies or just CDF to the list of local governmental agencies that are not subject to the limit of filing only two cases over the \$2,500 limit.
3. **Justification:** After years of budgetary cuts, state agencies are as strapped financially as are local agencies in terms of statutory mandates and limited resources to fulfill those mandates. State agencies should be authorized to make unlimited use of small claims court to recover small sums of money owed to them at a relatively small cost. With its decentralized operations, CDF finds that it is owed relatively small amounts of money from a variety of contracts and torts throughout the state. Under current law CDF must waive up to \$2,500 of a valid claim in order to use the small claims court once it has filed only two cases per year through the entire year.

ARGUMENTS:

Pro: CDF and other state agencies should be allowed to use small claims courts to the same extent as are local agencies. State agencies have as much need to recover amounts owed to them as do local agencies.

Con: Some people may have concerns about the Franchise Tax Board using small claims courts as collection agencies for taxes owed.

OTHER DEPARTMENTS WHICH MAY BE AFFECTED:

Department of Water Resources
Department of Fish and Game
Department of Parks and Recreation
CALTRANS
Department of Corrections
Highway Patrol

PROBABLE SUPPORT:

State agencies

OPPOSITION:

Anti-tax groups

FISCAL IMPACT:

This proposal would increase the degree of recovery of amounts owed to CDF from a variety of causes including fire costs, contracts, and torts including traffic accidents. Whereas most CDF small claims cases are now limited to \$2,500 each, CDF could seek to recover up to \$5,000 per claim at approximately the same cost for recovery.

ECONOMIC IMPACT:

The increased recoveries would come from a variety of sources. These could include people who cause fires negligently, businesses with whom CDF has contract disputes, and owners of motor vehicles involved in property-damage-only traffic accidents with CDF vehicles.

LEGISLATIVE HISTORY:

When the jurisdictional limit for small claims court was raised to \$5,000, the Legislature was concerned about collection agencies using the small claims courts to harass people. Accordingly, the Legislature inserted the limitation that any person could file only two claims per year above \$2,500. In AB 1755 of 1991 the Legislature authorized a pilot project in San Francisco and Stanislaus County to see if there would be a benefit to local government in being able to recover an unlimited number of claims up to \$5,000 each year. Based on favorable results in the pilot project, the Legislature passed AB 2937 in 1994. The bill declared that there were benefits to public agencies generally, but the bill language only gave the authority to local governments for the unlimited number of claims above \$2,500.

Legislative Proposal for Small Claims Court

Increase Allowable Number of Filings for State Agencies

Section 1. Section 116.231 of the Code of Civil Procedure is amended to read:

116.231. (a) Except as provided in subdivision (d), no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars (\$2,500), anywhere in the state in any calendar year.

(b) Except as provided in subdivision (d), if the amount demanded in any small claims action exceeds two thousand five hundred dollars (\$2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the demand exceeded two thousand five hundred dollars (\$2,500) have been filed by that party in this state within the calendar year.

(c) The Legislature finds and declares that the pilot project conducted under the authority of Chapter 1196 of the Statutes of 1991 demonstrated the efficacy of the removal of the limitation on the number of actions public entities may file in the small claims courts on claims exceeding two thousand five hundred dollars (\$2,500).

(d) The limitation on the number of filings exceeding two thousand five hundred dollars (\$2,500) does not apply to filings where the claim does not exceed five

thousand dollars (\$5,000) which are filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local or state public entity. If any small claims action is filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local or state public entity pursuant to this section, and the defendant informs the court either in advance of the hearing by written notice or at the time of the hearing, that he or she is represented in the action by legal counsel, the action shall be transferred to the municipal court. A city, county, city and county, school district, county office of education, community college district, local district, or any other local or state public entity may not file a claim within the small claims division if the amount of the demand exceeds five thousand dollars (\$5,000).

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